

**THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, JULY 27, 2015 AT 5:30 P.M.**

The Meeting was called to order at 5:37 p.m. Present: Council Chair Fellers; Council Members: Camp, Christensen, Eskridge, Gaylor Baird, Lamm, Raybould, City Clerk, Teresa J. Meier.

Council Chair Fellers announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door.

READING OF THE MINUTES

ESKRIDGE Having been appointed to read the minutes of the City Council proceedings of July 20, 2015, reported having done so, found same correct.

Seconded by Gaylor Baird and carried by the following vote; AYES: Camp, Christensen, Eskridge, Fellers, Gaylor Baird, Lamm, Raybould; NAYS: None.

PUBLIC HEARING

Council Chair Fellers welcomed Boy Scout Troop 472 to the City Council Meeting.

APPLICATION OF SMG FOOD & BEVERAGE, LLC FOR A SPECIAL DESIGNATED LICENSE TO COVER AN OUTDOOR AREA APPROXIMATELY 263 FEET BY 97 FEET AT PINNACLE BANK ARENA AT 400 PINNACLE ARENA DRIVE ON AUGUST 7, 2015 FROM 4:00 P.M. TO 2:00 A.M.;

APPLICATION OF SMG FOOD & BEVERAGE, LLC FOR A SPECIAL DESIGNATED LICENSE TO COVER AN OUTDOOR AREA APPROXIMATELY 700 FEET BY 448 FEET AT PINWOOD BOWL THEATER AT 3201 SOUTH CODDINGTON ON SEPTEMBER 24, 25 & 26, 2015 FROM 6:00 A.M. TO 2:00 A.M. - Tom Lorenz, General Manager of Pinnacle Bank Arena, 400 Arena Dr., came forward and said the first event was for Haymarket in White produced by Lincoln Haymarket Development Corporation. They are inviting people to dine on gourmet picnic fare and dance the night away. For the second event, they are adding an additional show to Pinewood Bowl featuring ZZTOP and Blackberry Smoke from the Grooves and Gravy Tour.

This matter was taken under advisement.

APPLICATION OF HERGERT OIL COMPANY DBA SUPER C FOR A CLASS D LIQUOR LICENSE AT 1700 L STREET;

MANAGER APPLICATION OF JOEL B. LARSON FOR HERGERT OIL COMPANY DBA SUPER C AT 1700 L STREET - Tim O'Neill, 121 S 13th St, Ste 800, attorney on behalf of Hergert Oil, came forward and took the oath. He said the applicant is seeking to acquire the Handy Shop at 17th & L St. and convert it to a Super C. This will be a significant improvement in this area and they intend to spend up to \$200,000 to improve the store and getting a liquor license will help support these improvements. They are asking for Council support. Discussion followed.

This matter was taken under advisement.

APPLICATION OF SILVER FOX, INC. DBA WC'S SOUTH LOUNGE & SPORTS BAR FOR A CLASS C LIQUOR LICENSE AT 2109 HWY 2;

MANAGER APPLICATION OF CHUCK C. CHEEVER FOR SILVER FOX, INC. DBA WC'S SOUTH LOUNGE & SPORTS BAR AT 2109 HWY 2 - Chuck Cheever, 3430 W. Buckthorn Rd, came forward and took the oath. They have had the license for 30 years and it was in his Dad's name, they are now switching it over to his name.

This matter was taken under advisement.

APPLICATION OF LAM KUAI FANG, LLC DBA PERFECT DINER FOR A CLASS I LIQUOR LICENSE AT 2855 NORTH 27TH STREET;

MANAGER APPLICATION OF GENG YE FOR LAM KUAI FANG, LLC DBA PERFECT DINER AT 2855 NORTH 27TH STREET - Lin Lin Ye, came forward and took the oath. She gave a brief overview of the food they would be serving and anticipate opening the beginning of October.

This matter was taken under advisement.

APPLICATION OF SHOPKO STORES OPERATING CO., LLC DBA SHOPKO 47 FOR A CLASS B LIQUOR LICENSE AT 100 SOUTH 66TH STREET;

MANAGER APPLICATION OF JAMES E. LARSON FOR SHOPKO STORES OPERATING CO., LLC DBA SHOPKO 47 AT 100 SOUTH 66TH STREET - James Larson, 17212 U St, Omaha NE, came forward and took the oath. He stated for this store they are looking to carry beer only.

This matter was taken under advisement.

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APPLICATION OF BW&R CANOPY, LLC DBA BUFFALO WINGS & RINGS FOR THE ADDITION OF A CATERING LICENSE TO THEIR CLASS I LIQUOR LICENSE AT 350 CANOPY STREET, SUITE 200 - Steve Barton, 5545 S. 72nd St, came forward and took the oath.

This matter was taken under advisement.

CHANGE OF ZONE 15017 - APPLICATION OF PAWS 4 FUN, LLC FOR A CHANGE OF ZONE FROM H-2 HIGHWAY BUSINESS DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 222 NORTH 44TH STREET - Christie Schroff, 300 N 44th St, Ste 116, attorney for the applicant, came forward and stated that this involves two separate properties, one which is not owned by the applicant. She presented letters of support from the other property owner and said they had a unanimous recommendation from the Planning Commission.

Leon Kilmer, 1531 Kingston Rd, came forward and stated this will be a family owned and operated business. He gave a brief overview of the services offered at their indoor dog park, daycare and boarding facility. They will be working closely with the dog/cat rescue operations in the community also. They will be located in the South Bldg. of the Sports Courts facility and all water damage has been addressed. As of right now, they are not using the outdoor area, but, in the future they may use some of that area for doggy wading pools.

This matter was taken under advisement.

CHANGE OF ZONE 15015 - APPLICATION OF ROBERT AND MARJORIE BIRKETT FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT 5000 SOUTH 84TH STREET - Mark Palmer, Olsson & Associates, 601 P St, came forward on behalf of the developers. He stated they have met with the neighbors on a number of occasions to fine tune the plan. The concept went from a town home development to patio home styles and reduced the density by 8 units. They currently have 21 or so units now. Per neighbors concerns, they are providing more storm water detention than is required by City Ordinances and believe they have the neighbors support.

This matter was taken under advisement.

CHANGE OF ZONE 15014 - APPLICATION OF SOUTH HILLS, INC. FOR A CHANGE OF ZONE FROM R-1 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF OLD CHENEY ROAD AND NORMAN ROAD. (RELATED ITEMS: 15-90, 15R-151);

SPECIAL PERMIT NO. 15035 - APPLICATION OF SOUTH HILLS, INC. TO ALLOW THE CONSTRUCTION OF A RESIDENTIAL HEALTH CARE FACILITY FOR UP TO 258 RESIDENTS, INCLUDING WAIVERS TO THE ZONING CODE AND LAND SUBDIVISION ORDINANCE TO INCREASE THE MAXIMUM HEIGHT OF BUILDINGS, ALLOW BLOCK LENGTH TO EXCEED 1,320 FEET, AND ELIMINATE PEDESTRIAN EASEMENT REQUIREMENTS FOR A BLOCK LENGTH EXCEEDING 1,000 FEET, ON PROPERTY GENERALLY LOCATED ON THE WEST PORTION OF THE KNOLLS COUNTRY CLUB, WEST OF NORMAN ROAD AND SOUTH OF OLD CHENEY ROAD. (RELATED ITEMS: 15-90, 15R-151) (ACTION DATE: 8/3/15) - Pat Day, Dial Real Estate Consultants LLC, Omaha NE, came forward and gave a brief overview of his background. He said he spoke to George and Janice Boosalis who own the land right now about building a retirement community. Their big focus is a win-win for the neighbors and themselves.

Kent Seacrest, 1111 Lincoln Mall, #350, came forward and stated they had 9 different neighborhood meetings and, as meetings progressed, tempers dissipated as more information was given. He said the issue was not if the golf course goes, but what would be the best land use alternative. The assisted living approach allows for 130 - 160 ft setbacks, grass uniformly cut, leaves picked up and having quiet neighbors, and this R-2 zone is in conformance with the Comp. Plan. They did an analysis showing independent living placed next to existing homes does not drop property values, they stay the same or go up. At this time, there are no other senior living communities in this R-1 zone area. In addressing some of the neighbors concerns, they have reduced the density from 285 to 258 which is a 10% drop, reduced the height waiver from 4 stories to 3, filled in landscape maps beyond city requirements, agreed to 80% of residents to be 55 years or older and are voluntarily willing to meet the design covenants up to 60%. The parking exceeds the required 96 spaces with 135 provided, and a screen wall will be built in regards to loading and garbage hauling.

Eric Westman, architect with Alley Poyner, 1615 Cumings St, Omaha NE, came forward and stated they set up meetings with neighbors to review both the look of the building and materials that would be used on the building.

Mr. Seacrest said they handed out a substitute motion to amend to Council as they forgot one of the elements which shows the material that would go under the balconies. What this is really saying is that they are willing to commit to the materials they are showing so that the neighbors know that this is not a "bait and switch" and that they will go forward with what neighbors reviewed. Discussion followed.

Mark Palmer, Olsson & Associates, 601 P St., came forward and went over the drainage issues, they would maintain the tree lines and, for storm sewer inlets, there will be a safe mechanism for water to drain through. The detention analysis has been approved through Public Works and they are meeting the requirements. Discussion followed.

Mr. Day came forward and said there would be 60 assisted living apartments, 20 memory care apartments, a common area, and in Phases 1 and 2, 65 independent living units. The average age customer would be 83-84 years of age.

Mark Hunzeker, 1248 O St., Ste 600, came forward on behalf of members of the Rolling Hills Neighborhood Association as well as residents of the Knolls. He said they had asked for changes to the site plan. They recently asked for the brick to remain a residential scale brick rather than the large over-size brick that are sometimes used on fairly large buildings. He didn't know if the developer has had a chance to review that request, but said Dial has been very accommodating. Discussion followed.

Dan Marvin, 5918 Rolling Hills Blvd., came forward and stated that this is a better project than what the Planning Department approved. He said the Planning Department rubber stamped a project that was brought forward by the developer and presented it to the Planning Commission. He said ample notice was given on some specific issues regarding, density, height, landscaping design, and later, issues based on age. The Planning Department did not represent their interest and, in effect, they had to work without the City process helping. Working with Dial, they addressed a lot of those issues and are now comfortable that they've got something better than what was originally proposed. Mr. Marvin said he takes it very serious if you change the zone. R-1 allows one resident for every 3,000 sq. ft. and R-2 allows one resident for every 2,000 sq. ft. If R-1 had that provision, you wouldn't have a change of zone and believes its only being used for density calculations. Discussion followed.

David Cary, Director of Planning, came forward and stated they look at zoning codes, what's the appropriate use for the existing zoning, as well as what is being proposed for a project. The Planning staff seriously reviews this criteria and there are often conversations with the applicant before the application comes forward in a public sense.

Council Member Gaylor Baird asked Mr. Cary to address the fact that they have heard from neighbors who did not feel they were given the opportunity to give input in the early stages of the process and that they had to hire an attorney to try and have a better voice. Also, that neighborhoods need to be on the watch that this is a new standard to be heard by the Planning Department.

Mr. Cary said he disagreed with that point. He didn't want that to be the message given and for that to be considered the standard. They are definitely available as far as staff is concerned. Discussion followed.

Steve Henrichsen, Planning Department, came forward and addressed the issue of the height waiver. Typically, what they look at is a set back increase equal to the height. For this project, when reviewing the Zoning Ordinance and Comp. Plan, they thought the height waiver very appropriate given that they had significantly increased the set back. He said for this project, the neighborhood came into the process exactly at the point they could come in to the process. In dealing with either a developer or home owner, they are asked to keep their request confidential and certainly encourage everyone to go forward and meet with neighbors. In this case, they gave their opinion that this project, as proposed, conformed with zoning and the Comp. Plan. He did not agree with the fact that this was a violation of the process. This application was kept confidential at the request of the applicant. It was the applicant who went forward to the neighborhood association and started meeting with the neighbors. This is a process that has been done time and time again in his 26 years of working for the Planning Department and they try and provide as much information as they can. Discussion followed.

Council Member Christensen asked if they were any specific guidelines addressing this type of development.

Mr. Henrichsen said that is specifically why they have the residential health care facility rather than a pigeon hole permit for assisted living.

Mr. Seacrest stated the Planning Department had a big part in facilitating this process and they did their job. He said the issue is that the Comprehensive Plan has changed. Discussion followed.

This matter was taken under advisement.

AMENDING CHAPTER 9.44 OF THE LINCOLN MUNICIPAL CODE RELATING TO FIREWORKS TO PROHIBIT THE SALE OR USE OF SKY LANTERN FIREWORKS WITHIN THE CITY OF LINCOLN

- Bill Moody, Chief Fire Inspector, came forward in support of the prohibition of fire lanterns. He said in 2012 there were 10 fires, 2013 11 fires, 2014 one big one in Williamsburg that caused \$260,00.00 of damage, and in 2015 6 fires so far this year. May 31st of this year is where a lantern came down and ignited the roof of Las Margaritas. He has spoken to the State Fire Marshall's who are in support of the ban and are working through the State Legislative process. A statewide ban is a first step. They have talked to retailers who have voluntarily taken the lanterns off the shelves.

Council Member Christensen said he was contacted by Senator Johnson of Wahoo who was very much in favor of this ordinance passing and plans to make this a priority bill for next session. The County Board is looking at this issue as well.

Jeff Kirkpatrick, City Attorney, came forward and said the fireworks section of the code shows a fine of \$25.00 to \$500.00. He said we don't want to have two different standards for illegal fire works so it might be something Council may want to come back to for reconsideration.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY CITY COUNCIL ON JULY 13, 2015. (27-1)

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MON., AUGUST 3, 2015 AT 3:00 P.M. ON THE APPLICATION OF COUNTRYVIEW STUDIOS INC. FOR A SPECIAL DESIGNATED LICENSE AT ART & SOUL LOCATED AT 5740 HIDCOTE DR. ON AUGUST 13, 2015 FROM 6 P.M. TO 9 P.M. AND ON AUGUST 27, 2015 FROM 6 P.M. TO 9 P.M. - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-89117 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 3, 2015 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE for the Application of Countryview Studios Inc. for a Special Designated License at Art & Soul located at 5740 Hidcote Dr. on August 13, 2015 from 6 p.m. to 9 p.m. and on August 27, 2015 from 6 p.m. to 9 p.m.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Carl Eskridge

Seconded by Raybould and carried by the following vote; AYES: Camp, Christensen, Eskridge, Fellers, Gaylor Baird, Lamm, Raybould; NAYS: None.

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK:

ADMINISTRATIVE AMENDMENT NO. 15057 TO PRELIMINARY PLAT #06004, WILDERNESS HILLS, APPROVED BY THE ACTING PLANNING DIRECTOR ON JULY 14, 2015, REQUESTED BY OLSSON ASSOCIATES, TO REMOVE FROM THE WILDERNESS HILLS PRELIMINARY PLAT THAT AREA INCLUDED IN THE WILDERNESS CREEK PUD, GENERALLY LOCATED AT S. 33RD STREET AND YANKEE HILL ROAD.

LIQUOR RESOLUTIONS

APPLICATION OF SMG FOOD & BEVERAGE, LLC FOR A SPECIAL DESIGNATED LICENSE TO COVER AN OUTDOOR AREA APPROXIMATELY 263 FEET BY 97 FEET AT PINNACLE BANK ARENA AT 400 PINNACLE ARENA DRIVE ON AUGUST 7, 2015 FROM 4:00 P.M. TO 2:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-89118 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of SMG Food & Beverage, LLC for a special designated license to cover an outdoor area measuring approximately 263 feet by 97 feet at Pinnacle Bank Arena, 400 Pinnacle Arena Drive, Lincoln, Nebraska, on August 7, 2015, between the hours of 4:00 p.m. and 2:00 a.m., be approved with the condition that the premises complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Christensen and carried by the following vote; AYES: Camp, Christensen, Eskridge, Fellers, Gaylor Baird, Lamm, Raybould; NAYS: None.

APPLICATION OF SMG FOOD & BEVERAGE, LLC FOR A SPECIAL DESIGNATED LICENSE TO COVER AN OUTDOOR AREA APPROXIMATELY 700 FEET BY 448 FEET AT PINWOOD BOWL THEATER AT 3201 SOUTH CODDINGTON ON SEPTEMBER 24, 25 & 26, 2015 FROM 6:00 A.M. TO 2:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-89119 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of SMG Food & Beverage, LLC for a special designated license to cover an outdoor area